

House Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 95

HOUSE BILL 2113

AN ACT

AMENDING SECTION 9-471, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL
ANNEXATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-471, Arizona Revised Statutes, is amended to
3 read:

4 9-471. Annexation of territory; procedures; notice; petitions;
5 access to information; restrictions

6 A. The following procedures are required to extend and increase the
7 corporate limits of a city or town by annexation:

8 1. A city or town shall file in the office of the county recorder of
9 the county in which the annexation is proposed a blank petition required by
10 paragraph 4 of this subsection setting forth a description and an accurate
11 map of all the exterior boundaries of the territory contiguous to the city or
12 town proposed to be annexed, except that a city or town shall not file an
13 annexation petition that includes any territory for which an unsuccessful
14 annexation was attempted by the same city or town until at least forty-five
15 days after completion of the unsuccessful attempt. A property owner may
16 waive the forty-five day waiting period for ~~their~~ THE OWNER'S property that
17 was part of the original unsuccessful annexation. Notice and a copy of the
18 filing shall be given to the clerk of the board of supervisors and to the
19 county assessor. The accurate map shall include all county rights-of-way and
20 roadways with no taxable value that are within or contiguous to the exterior
21 boundaries of the area of the proposed annexation. If state land, other than
22 state land utilized as state rights-of-way or land held by the state by tax
23 deed, is included in the territory, written approval of the state land
24 commissioner and the selection board established by section 37-202 shall also
25 be filed. For the purposes of this paragraph, "unsuccessful annexation"
26 means an annexation attempt that was withdrawn or that was not completed
27 pursuant to this section.

28 2. Signatures on petitions filed for annexation shall not be obtained
29 for a waiting period of thirty days after filing the blank petition.

30 3. After filing the blank petition pursuant to paragraph 1 of this
31 subsection, the governing body of the city or town shall hold a public
32 hearing within the last ten days of the thirty day waiting period to discuss
33 the annexation proposal. The public hearing shall be held in accordance with
34 title 38, chapter 3, article 3.1, except that, notwithstanding section
35 38-431.02, subsections C and D, the following notices of the public hearing
36 to discuss the annexation proposal shall be given at least six days before
37 the hearing:

38 (a) Publication at least once in a newspaper of general circulation,
39 which is published or circulated in the city or town and the territory
40 proposed to be annexed, at least fifteen days before the end of the waiting
41 period.

42 (b) Posting in at least three conspicuous public places in the
43 territory proposed to be annexed.

1 (c) Notice by first class mail sent to the chairman of the board of
2 supervisors of the county in which the territory proposed to be annexed is
3 located.

4 (d) Notice by first class mail with an accurate map of the territory
5 proposed to be annexed sent to each owner of the real and personal property
6 as shown on the list furnished pursuant to subsection G of this section that
7 would be subject to taxation by the city or town in the event of annexation
8 in the territory proposed to be annexed. For the purposes of this
9 subdivision, "real and personal property" includes mobile, modular and
10 manufactured homes and trailers only if the owner also owns the underlying
11 real property.

12 4. Within one year after the last day of the thirty day waiting period
13 a petition in writing signed by the owners of one-half or more in value of
14 the real and personal property and more than one-half of the persons owning
15 real and personal property that would be subject to taxation by the city or
16 town in the event of annexation, as shown by the last assessment of the
17 property, may be circulated and filed in the office of the county recorder.
18 For the purposes of this paragraph, "real and personal property" includes
19 mobile, modular and manufactured homes and trailers only if the owner also
20 owns the underlying real property.

21 5. No alterations increasing or reducing the territory sought to be
22 annexed shall be made after a petition has been signed by a property owner.

23 6. The petitioner shall determine and submit a sworn affidavit
24 verifying that no part of the territory for which the filing is made is
25 already subject to an earlier filing for annexation. The county recorder
26 shall not accept a filing for annexation without the sworn affidavit.

27 B. All information contained in the filings, the notices, the
28 petition, tax and property rolls and other matters regarding a proposed or
29 final annexation shall be made available by the appropriate official for
30 public inspection during regular office hours.

31 C. Any city or town, the attorney general, the county attorney, or any
32 other interested party may upon verified petition move to question the
33 validity of the annexation for failure to comply with this section. The
34 petition shall set forth the manner in which it is alleged the annexation
35 procedure was not in compliance with this section and shall be filed within
36 thirty days after adoption of the ordinance annexing the territory by the
37 governing body of the city or town and not otherwise. The burden of proof
38 shall be upon the petitioner to prove the material allegations of the
39 verified petition. No action shall be brought to question the validity of an
40 annexation ordinance unless brought within the time and for the reasons
41 provided in this subsection. All hearings provided by this section and all
42 appeals therefrom shall be preferred and heard and determined in preference
43 to all other civil matters, except election actions. In the event more than
44 one petition questioning the validity of an annexation ordinance is filed,
45 all such petitions shall be consolidated for hearing. If two or more cities

1 or towns show the court that they have demonstrated an active interest in
2 annexing any or all of the area proposed for annexation, the court shall
3 consider any oral or written agreements or understandings between or among
4 the cities and towns in making its determination pursuant to this subsection.

5 D. The annexation shall become final after the expiration of thirty
6 days from the adoption of the ordinance annexing the territory by the city or
7 town governing body, provided the annexation ordinance has been finally
8 adopted in accordance with procedures established by statute, charter
9 provisions or local ordinances, whichever is applicable, subject to the
10 review of the court to determine the validity thereof if petitions in
11 objection have been filed. AFTER ADOPTION OF THE ANNEXATION ORDINANCE, THE
12 CLERK OF THE CITY OR TOWN SHALL PROVIDE A COPY OF THE ADOPTED ANNEXATION
13 ORDINANCE TO THE CLERK OF THE BOARD OF SUPERVISORS OF EACH COUNTY THAT HAS
14 JURISDICTION OVER THE ANNEXED AREA.

15 E. For the purpose of determining the sufficiency of the percentage of
16 the value of property under this section, such values of property shall be
17 determined as follows:

18 1. In the case of property assessed by the county assessor, values
19 shall be the same as shown by the last assessment of the property.

20 2. In the case of property valued by the department of revenue, values
21 shall be appraised by the department in the manner provided by law for
22 municipal assessment purposes.

23 F. For the purpose of determining the sufficiency of the percentage of
24 persons owning property under this section, the number of persons owning
25 property shall be determined as follows:

26 1. In the case of property assessed by the county assessor, the number
27 of persons owning property shall be as shown on the last assessment of the
28 property.

29 2. In the case of property valued by the department of revenue, the
30 number of persons owning property shall be as shown on the last valuation of
31 the property.

32 3. If an undivided parcel of property is owned by multiple owners,
33 such owners shall be deemed as one owner for the purposes of this section.

34 4. If a person owns multiple parcels of property, such owner shall be
35 deemed as one owner for the purposes of this section.

36 G. The county assessor and the department of revenue, respectively,
37 shall furnish to the city or town proposing an annexation within thirty days
38 after a request therefor a statement in writing showing the owner, the
39 address of each owner and the appraisal and assessment of all such property.

40 H. Territory is not contiguous for the purposes of subsection A,
41 paragraph 1 of this section unless:

42 1. It adjoins the exterior boundary of the annexing city or town for
43 at least three hundred feet.

44 2. It is, at all points, at least two hundred feet in width, excluding
45 rights-of-way and roadways.

1 3. The distance from the existing boundary of the annexing city or
2 town where it adjoins the annexed territory to the furthest point of the
3 annexed territory from such boundary is no more than twice the maximum width
4 of the annexed territory.

5 I. A city or town shall not annex territory if as a result of such
6 annexation unincorporated territory is completely surrounded by the annexing
7 city or town.

8 J. Notwithstanding any provisions of this article to the contrary, any
9 town incorporated prior to 1950 which had a population of less than two
10 thousand persons by the 1970 census and which is bordered on at least three
11 sides by Indian lands may annex by ordinance territory owned by the state
12 within the same county for a new townsite which is not contiguous to the
13 existing boundaries of the town.

14 K. Subsections H and I of this section do not apply to territory which
15 is surrounded by the same city or town or which is bordered by the same city
16 or town on at least three sides.

17 L. A city or town annexing an area shall adopt zoning classifications
18 which THAT permit densities and uses no greater than those permitted by the
19 county immediately before annexation. Subsequent changes in zoning of the
20 annexed territory shall be made according to existing procedures established
21 by the city or town for the rezoning of land.

22 M. The annexation of territory within six miles of territory included
23 in a pending incorporation petition filed with the county recorder pursuant
24 to section 9-101.01, subsection C shall not cause an urbanized area to exist
25 pursuant to section 9-101.01 which THAT did not exist prior to the
26 annexation.

27 N. As an alternative to the procedures established in this section, a
28 county right-of-way or roadway with no taxable real property may be annexed
29 to an adjacent city or town by mutual consent of the governing bodies of the
30 county and city or town if the property annexed is adjacent to the annexing
31 city or town for the entire length of the annexation and if the city or town
32 and county each approve the proposed annexation as a published agenda item at
33 a regular public meeting of their governing bodies.

34 O. On or before the date the governing body adopts the ordinance
35 annexing territory, the governing body shall have approved a plan, policy or
36 procedure to provide the annexed territory with appropriate levels of
37 infrastructure and services to serve anticipated new development within ten
38 years after the date when the annexation becomes final pursuant to subsection
39 D of this section.

40 P. If a property owner prevails in any action to challenge the
41 annexation of the property owner's property, the court shall allow the
42 property owner reasonable attorney fees and costs relating to the action from
43 the annexing municipality.

44 Q. A city or town may annex territory that is a county owned park or a
45 park operated on public lands by a county as part of a management agreement

1 if otherwise agreed to by the board of supervisors. If the board of
2 supervisors does not agree to the annexation, the county owned park or park
3 operated on public lands by a county as part of a management agreement shall
4 be excluded from the annexation area, notwithstanding subsections H and I of
5 this section. A county owned park or park operated on public lands by a
6 county as part of a management agreement that is excluded from the annexation
7 area pursuant to this subsection may subsequently be annexed with the
8 permission of the board of supervisors notwithstanding any other provision of
9 this section. For the purposes of this subsection, "public lands":
10 1. Has the same meaning prescribed in section 37-901.
11 2. Does not include lands owned by a flood control district.

APPROVED BY THE GOVERNOR APRIL 28, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2008.

Passed the House March 12, 20 08

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

Norman L. Fyoo
Chief Clerk of the House

Passed the Senate April 21, 20 08

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

Pro Tempore

Charmine Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

22nd day of April, 20 08

at 2:40 o'clock p. M.

[Signature]
Secretary to the Governor

Approved this 28 day of

April 2008

at 10:15 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 28 day of April, 20 08

at 1:35 o'clock P M.

[Signature]
Secretary of State

H.B. 2113